Remarks

This is responsive to the final Office Action mailed August 5, 2008, which provided a final rejection of all pending claims 1-7, 9-17, and 20 in the application.

An Appeal Brief was previously filed by the Applicant on August 31, 2007, and a new non-final Office Action was mailed on November 20, 2007 to reopen the present prosecution.

A detailed Examiner's Interview was held with the Applicant's Attorney on April 16, 2008, and the Applicant filed a response to the non-final Office Action thereafter on April 21, 2008. It was believed at that time that agreement on patentability had been reached with the Examiner, and the case was in condition for allowance.

The most recent final Office Action, however, cites to additional art and, on this basis, maintains that the claims are unpatentable. The Applicant respectfully requests reconsideration of this latest determination by the Examiner.

A minor post-final amendment has been provided above to independent claim 1 to correct an objection to this claim for lack of antecedent basis. Claim 1 now generally recites that when "*a conclusion of a selected time interval ongoing data for a selected one of the query statements is interrupted, the associated data subset transferred up to the interruption is retained.*" Support for the amendment is found in the presented language of independent claim 11, as well as in the Specification, FIG. 7 and pg. 9, line 20 to page 10, line 1.

This amendment is believed to be proper, does not introduce new matter and serves to place the application in proper condition for reconsideration and allowance, or alternatively, for appeal.

Information Disclosure Statement

The Examiner noted a discrepancy on the Information Disclosure Statement (IDS) filed January 15, 2004 with regard to the reference listed as U.S. 6,207,022 to Hong. The Examiner indicated that this reference patent number is actually directed to non-related art.

The Applicant apologizes for this error, and has investigated the same in an effort to identify the intended reference. It is not believed that the intended reference is material to patentability.

Claims rejected under 35 U.S.C. §103(a): Claims 1-5, 9, and 11-15

Claims 1-5, 9, and 11-15 were finally rejected as being obvious over U.S. Patent No. 5,857,180 to Hallmark et al. ("Hallmark '180") in view of U.S. Patent No. 6,732,100 to Brodersen et al. ("Brodersen '100") further in view of "Operating System Concepts" by Silberschatz et al. ('Silberschatz').

This rejection is respectfully traversed on the basis that the cited references fail to teach or suggest all of the claim limitations, as well as on the basis that the skilled artisan would not view it desirable to modify the references to arrive at the claimed subject matter. Each of these bases for traversal will be discussed below in turn.

It is initially noted that the Applicant has previously presented arguments on the record with regard to the deficiencies of the Hallmark '180 and Brodersen '100 references. These arguments are maintained and will not be repeated here.

1. Failure to teach or suggest all the claim limitations

An obviousness rejection requires a showing of a teaching or suggestion in the prior art for each claim limitation. *In re Royka*, 180 USPQ 580 (CCPA 1974). Claims 1 and 11 generally feature "*wherein an auto-brake function is initiated that defines a maximum input/output elapsed*

time interval." This language is not taught or suggested by any of the Hallmark '180, Brodersen '100, or Silberschatz references, alone or in combination.

The Examiner has admitted that neither the Hallmark '180 nor Brodersen '100 references teach "*an auto-brake function is initiated that defines a maximum input/output elapsed time interval.*" See e.g. Final Office Action, page 5, lines 7-8. The Examiner's reliance on Silberschatz to supply this deficient teaching or suggestion is respectfully misplaced. See e.g. Final Office Action, page 5, line 21 to page 6, line 2.

The Silberschatz reference generally teaches a process management system that incorporates queues for a multiprogramming computer environment. See Silberschatz, page 99, sec. 4.2, lines 1-6. The reference defines the operation of queues as "*processes that are residing in main memory and are ready and waiting to execute.*" See Silberschatz, page 99, sec. 4.2.1, lines 2-3. A queue is defined as executing when a process "*is allocated by the CPU, it executes for a while and eventually quits, is interrupted, or waits for the occurrence of a particular event.*" See Final Office Action, page 99, sec. 4.2.1, lines 7-9. Nowhere, however, does Silberschatz teach or suggest a defined input/output time interval, as claimed.

The operation of a queue, as taught by Silberschatz, allows a CPU to manage multiple processes without need for rescheduling or error. Indeed, the objective of the queues is stated as switching "*the CPU among processes so frequently that users can interact with each program while it is running*" that results in more than one process having to "*wait until the CPU is free and can be rescheduled.*" See Silberschatz, page 99, sec. 4.2, lines 2-6. Thus, the Silberschatz reference relies on the ability to stop a process with a variety of events (i.e. completion, interruption, or other event) to allow multiprogramming. None of these operations, however, include or even contemplate a predetermined input/output time interval, as claimed.

Indeed, the use of a defined input/output time interval, as claimed, would be counter to the organization and operation of the Silberschatz reference. The skilled artisan would

immediately understand that a defined maximum time interval would prevent a user from interrupting a functioning process to change to another process and require the user to wait until either completion of the process or the time interval to lapse to engage another process.

It is noted that the scheduler taught in Silberschatz "swaps" operating processes by interrupting a process and restarting it at a later time in order to "*reduce the degree of multiprogramming.*" See Silberschatz, page 103, sec. 4.2.2, lines 1-5. The swapping operation cannot be fairly viewed as utilizing the claimed maximum input/output elapsed time interval by placing the interrupted process back in the queue. See Silberschatz, FIG. 4.6 as well as page 103, sec. 4.2.2, lines 2-4.

2. The skilled artisan would not find it desirable to arrive at the claimed combination from the combined teachings of the references.

Obviousness rejections must meet the analysis requirements of *Graham v. John Deere Co.*, 383 US 1 (1966) as recently discussed by the Supreme Court in *KSR International Co. v. Teleflex Inc. et al.*, 127 S. Ct. 1727 (2007).

Such analysis requires: (A) the claimed invention must be considered as a whole; (B) the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) reasonable expectation of success is the standard with which obviousness is determined. See MPEP 2141.

The Applicant generally agrees with the Examiner that "*the inventions are directed towards accessing computer resources in computers.*" See final Office Action, pg. 6, lines 12-13. However, the combined teachings of the references fail to teach or suggest the simultaneous execution of a plurality of query statements that have a limited maximum elapsed time interval, as claimed. Indeed, when considered as a whole, Silberschatz directs the skilled artisan away

from the claimed combination by teaching methods focused on allowing a single process to be executed while other processes are queued and awaiting execution. See e.g. Silberschatz, FIG. 4.3 as well as page 99, sec. 4.2-4.2.1, lines 1-17; *In re Fulton,* 73 USPQ2d 1141, 1145 (Fed. Cir. 2004), citing *In re Gurley,* 27 F.3d 551, 554 (Fed. Cir. 1994) (emphasis added) (*"A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference or would be led in a direction divergent from the path that was taken by the applicant."*).

The Examiner states in the final Office Action:

> *"it would be obvious to one of ordinary skill in the art at the time of the invention having the teachings of Brodersen, Silberschatz, and Hallmark before him/her to take the login of multiple user accounts from Brodersen and the multiprocessing of Silberschatz and install it into the invention of Hallmark, thereby offering the obvious advantage of increased speed and using a simple method of allowing access to a subset of resources and establishing roles/permissions easily for the authority required. Including security features in Hallmark would make the database more resistant to outside tampering."* See final Office Action, pg. 7, lines 4-10.

The foregoing analysis is blatant improper hindsight reconstruction of the claim, using the claim language as a blueprint to pick and choose from the respective references. As such, the foregoing reasoning fails to take into account the combined teachings of the references as a whole with regard to the desirability of the combination. *Graham, Supra.* The Examiner is reminded that obviousness rejections cannot be based on mere conclusory statements, but rather must be based on some "*articulated reasoning based on rational underpinnings*" to support the obviousness conclusion. *KSR, Supra.*

One skilled in the art would not reasonably combine the respective teachings of the Hallmark '180, Brodersen '100 and Silberschatz references to arrive at the limitations of claims 1 and 11. This is particularly true since Silberschatz is directed away from the simultaneous execution of commands, and instead requires each command to be executed singularly while the

remaining queries are queued for later execution. See Silberschatz, FIG. 4.3, 4.5, and 4.6 as well as page 103, sec. 4.2.2, lines 1-7.

For these reasons, reconsideration and withdrawal of the rejection of claims 1 and 11, and for claims 2-5, 9, and 11-15 depending therefrom, are respectfully requested on this basis as well.

Claims rejected under 35 U.S.C. §103(a): Claims 6, 7, 16, and 17

Claims 6, 7, 16, and 17 stand rejected as being unpatentable over U.S. Patent No. 5,857,180 to Hallmark et al. ("Hallmark '180") in view of U.S. Patent No. 6,732,100 to Brodersen et al. ("Brodersen '100") in view of "Operating System Concepts" by Silberschatz et al. ('Silberschatz') further in view of U.S. Patent No. 6,011,758 to Dockes et al. (Dockes '758). This rejection is based on prior art previously discussed. The Applicant reserves the previously presented arguments of the patentability of the claimed invention over the Dockes '758 reference. Further, the Applicant believes that the Silberschatz reference does not place the cited claims in an unpatentable status due to the dependence on independent claims 1 and 11, discussed above. Therefore, the rejection is respectfully traversed.

Claims rejected under 35 U.S.C. §103(a): Claims 10 and 20

Claims 10 and 20 are currently rejected as being unpatentable over U.S. Patent No. 5,857,180 to Hallmark et al. ("Hallmark '180") in view of U.S. Patent No. 6,732,100 to Brodersen et al. ("Brodersen '100") in view of "Operating System Concepts" by Silberschatz et al. ('Silberschatz') further in view of "Man: Crontab(5)" (Crontab). This rejection is based on prior art previously discussed. The Applicant reserves the previously presented arguments of the patentability of the claimed invention over the Crontab reference. Further, the Applicant believes that the Silberschatz reference does not place the cited claims in an unpatentable status due to the

dependence on independent claims 1 and 11, discussed above. Therefore, the rejection is respectfully traversed.

Conclusion

This is intended to be a complete response to the final Office Action mailed August 5, 2008. The Applicant respectfully requests reconsideration and allowance of all of the claims pending in the application. Should any questions arise concerning this Response, the Examiner is cordially invited to contact the below signed attorney.

Respectfully submitted,

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